

FILED
U.S. DISTRICT COURT

2011 MAY 13 P 2:01

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

MP-OTHA CORPORATION,

Plaintiff,

v.

AS AMERICAN AS DOUGHNUTS, INC. et
al.,

Defendants.

ORDER

Case No. 2:11-cv-241 CW

Judge Clark Waddoups

On May 12, 2011, the court heard evidence and oral argument on Defendant As American As Doughnuts, Inc.'s motion for temporary restraining order. Defendant has asserted a counterclaim for intentional interference with economic relations and prospective advantage. Specifically, Defendant asserts that Plaintiff interfered with its economic relations because it sent a cease and desist letter to Red's Dogs and Donuts so it would cease using Defendant's donut mix.

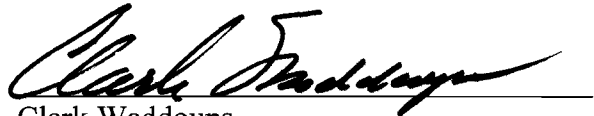
During the hearing, however, Defendant testified that the owner of Red's Dogs and Donuts told him he was not intimidated by the letter and would continue purchasing from him.¹ In contrast, Plaintiff's witness testified the owner of Red's Dogs and Donuts had ceased doing business with Defendant before Plaintiff sent the cease and desist letter. Regardless of which version is correct, Defendant failed to show irreparable harm resulting from the cease and desist letter. Absent irreparable harm, Defendant is not entitled to temporary or preliminary injunctive relief. The court

¹ The owner of Red's Dogs and Donuts is reportedly hospitalized at this time and unable to testify.

therefore DENIES Defendant's motion.²

SO ORDERED this 13th day of May, 2011.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Clark Waddoups", written over a horizontal line.

Clark Waddoups
United States District Judge

² Docket No. 18.